THE HONOURABLE MRS. JUSTICE T. MEENA KUMARI
AND
THE HONOURABLE MS. JUSTICE G. ROHINI

WRIT PETITION No. 26413 of 2007

ORAL ORDER:
(Per T. Meena Kumari, J)

The Writ Petition is filed seeking stay of collection of the disputed tax of Rs. 26,80,951/- for the assessment year 2002-03 under the APGST Act pending disposal of the appeal filed by the petitioner before the Sales Tax Appellate Tribunal, Hyderabad on 10.12.2007.

It is submitted by the learned counsel for the petitioner that the total liability of demand would be Rs. 26,80,951/-. It is submitted by the learned counsel for the petitioner that the 1st respondent has passed final assessment order on 19.7.2004 and revised assessment order dated 26.7.2004 levying tax. Aggrieved by the said order of the 1st respondent, the petitioner has preferred a statutory appeal before the 2nd respondent on 3.8.2004 disputing the tax liability of Rs.5,79,35,364/- and the petitioner also preferred a stay application before the 2nd respondent seeking stay of collection of the balance disputed tax of Rs. 55,81,167/- as per order dated 19.7.2004. It is the contention of the learned counsel for the petitioner that the balance disputed tax in demand as per the revised assessment order is Rs. 53,61,901/-. Aggrieved by the order of the 2nd respondent, petitioner preferred a revision before the 3rd respondent on 22.1.2005 seeking stay of collection and the 3rd respondent by order dated 24.1.2005 has refused to grant stay of collection of disputed tax. Aggrieved by the said order, the

petitioner has approached this Court in W.P.No.819 of 2005 and this Court on 28.1.2007 granted conditional stay on payment of 50% in four weeks and the recovery of balance was stayed till disposal of the appeal before the 2nd respondent and the petitioner has also deposited a sum of Rs. 26,80,951/-. On 27.10.2007, the 2nd respondent dismissed the appeal observing that similar appeal for the year 2001-02 has been dismissed. In view of the dismissal of the appeal by the 2nd respondent, the stay granted by this Court in W.P.No.819 of 2005 has become redundant. The learned counsel for the petitioner further submits that the petitioner has preferred a further appeal to the Sales Tax Appellate Tribunal on 10.12.2007. Hence, the present Writ Petition has been filed.

It is further submitted by the learned counsel for the petitioner that the petitioner has already deposited 50% of the disputed amount before the respondents and the petitioner would be put to irreparable loss, if no stay is granted..

Heard the learned Special Standing Counsel for Commercial Taxes.

In view of the facts and circumstances of the case, it would suffice if stay is granted subject to payment of 50% of the total amount of disputed tax of Rs. 26,80,951/-

Accordingly, the Writ Petition is disposed of. However, pending disposal of the appeal before the Sales Tax Appellate Tribunal, stay is granted subject to payment of 50% of the disputed tax of Rs. 26,80,951/- and the same shall be deposited before the 4th respondent within a period of six weeks from today. Since it is represented by the learned counsel for the petitioner that the 50% of the disputed tax was already deposited before the respondents, it is made clear that if the petitioner has already deposited the 50%

of the disputed tax, the same shall be treated as 50% of the tax now to be deposited.

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T. MEENA KUMARI, J

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G. ROHINI, J

12.12.2007

N.B.
C.C. by 20.12.2007
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